

Before the

Federal Communications Commission

Washington, D.C. 20554

)

In the Matter of) MM Docket No. 99-25

)

Creation of a Low) RM-9208

Power Radio Service) RM-9242

)

)

TO: The Federal Communications Commission

REPLY TO COMMENTS MADE CONCERNING THE NPRM ON A LOW POWER RADIO
SERVICE

IDENTIFICATION OF PARTIES

My name is Ted M. Coopman and I am a resident of Santa Cruz, CA. I have a Master of Science in Mass Communications from San Jose State University (1995) and have been researching Micro Radio since 1993. I have presented numerous papers on this subject at professional conventions held by the National Communication Association, the American Communication Association, the Western Communication Association, and the Southern States Communication Association. I also have a manuscript on the subject accepted for publication in the Journal of Broadcasting and Electronic Media (Fall 1999 edition) and operate a website (www.roguecom.com/rogueradio) where I house my research on broadcasting. I am also the co-founder of Rogue Communications, a multi-service consulting and research company. In these capacities, I have become concerned with the state of radio broadcasting in the United States and the loss of diversity and localism in both commercial and non-commercial radio.

Translators

Responding to Calvary Chapel of Twin Falls (CCTF), Educational Media Foundation (EMF), State of Oregon, CPB and others; NON-COMMERCIAL translators should be protected from interference or displacement from LPFM stations unless there are no other locally available channels. No protection should be offered to long distance translators defined as being located more than 400 km from primary broadcasting source.

Full-Power Public and Commercial Services Claim to Serve the Needs of Americans

In comments made by the CPB and the NAB, both organizations state that the service provided by them is serving the needs of the American radio listening public. Further, they assert that their programming is diverse and represents local interests (also defined as localism). While these declarations are followed by examples of this programming and a list of stand alone, locally operated radio stations, they fail to explain a key element of the NPRM and comments filed in favor of it; wide-spread public support for a Low Power Radio Service.

Demand from Public is Evident and Broad-based

If, in fact, the current FM broadcasting infrastructure (as represented by the CPB and NAB) was doing such an excellent job serving the American public, why has there been such a demand for a Low Power Radio Service? With over 13, 000 requests for information on Low Power Radio Service in 1998 and an additional 2,500 in 1999 as well as a broad based coalition rallied around the creation of such a service, how can the NAB and CPB support their claims to fully serving the American public? Supporters of a Low Power Radio Service run the political and social spectrum from the left to the right, including commercial and non-commercial interests, the National Lawyers Guild, non-affiliated community broadcasters, 24 different Civil Rights Groups including Rainbow/PUSH, the National Hispanic Media Coalition and the Native American Journalists Association, the National Council of Churches, and a vast array of community groups, businesses, and organizations (see Joint Statement on Micro Radio). Since

the 1996 Telecommunication Act minority owned radio stations have declined from 3.1% to 2.9% of the nations 11,500 stations. Black owned radio stations constitute only 1.7% of that number. The Rev, Jesse Jackson speaking at the Radio and Records convention in LA in June of 1998 stated, "This is not just a matter of black and white, its a matter of control,. It's a monopoly." This is true for both existing commercial and non-commercial FM stations. Access is non-existent. Moreover, how would the CPB and NAB explain the vast increase in unlicensed FM radio activity over the past eight years? Ordinary citizens are so outraged at the state of media (specifically radio) in the US that they are willing to defy the FCC by operating these stations and risking fines and imprisonment. The basic technology of radio broadcasting has not changed in decades, yet the increase in unlicensed radio activity has increased several hundred percent in the last decade. The NAB and CPB should ask themselves what has caused this increase before dismissing LPFM out of hand.

LPFM's Service to Communities

Concerning the NAB and CPB assertions that a LPFM service cannot adequately serve communities is completely groundless and has no basis in fact. This type of dissuasive statement is supposed to be taken at face value when there is NO supporting evidence. On the contrary, there is significant evidence that these stations do, in fact, serve their communities quite well. Excellent Radio in Grovers Beach, CA was a focal point for community activity, broadcasting city council meetings and providing a place for locals to talk about important issues; BASS-FM in Miami, Florida was credited by local authorities for decreasing community tensions and giving a troubled community a constructive outlet to express their concerns; and San Francisco Liberation Radio and Free Radio Santa Cruz (CA) are the only radio stations in their areas who have programming to aid the homeless and who give the homeless a chance to speak out. City councils across the nation have passed resolutions in support of Micro Radio from San Marcos, Texas to Detroit, Michigan. Low Power FM stations across America operate at the sufferance of their communities and manage to keep on the air with no support beyond individual, often non-

tax deductible contributions by individuals. If these stations, despite operating in defiance of FCC regulations, were not serving their communities, they would not exist.

LPFM's Financial Viability

Concerning the NAB and CPB assertions that Low Power FM stations would not be financially viable and would give inconsistent part-time service, again, these claims are without merit or basis in fact. Many existing Low Power Stations, operating in defiance of FCC regulations and without external funding from corporations, advertisers, or the CPB, have been broadcasting for years on consistent schedules. They have raised funds and maintained their operations despite incredibly difficult situations. In spite of the high cost of rent in many areas, having equipment seized, and often no non-profit status, many stations have maintained a 24/7 broadcasting schedule. This kind of resiliency would be more than adequate to sustain a station if they have a legal standing to operate.

Amnesty for Low Power Pioneers

Concerning the position by the NAB and CPB that micro radio pioneers should be excluded from any Low Power Radio Service; this position is practically and morally wrong-headed as well as being hypocritical. The basis for my argument lies in the inherent difference between a traditional "pirate" broadcaster and a "micro" Broadcaster. Despite the charged rhetoric of the NAB and other groups, there are distinct differences. The micro broadcasting movement was established as a protest, an act of electronic civil disobedience by those who felt the system of broadcast licensing was so skewed and closed that normal channels would be ineffective.

Whether or not this was (or is) the case, those involved perceived this to be the situation and acted upon it. This perception is reinforced by the general consensus that the NPRM is mostly or partially a result of these acts of protest. I will provide a brief summary of my research concerning the differences between what I would call a "traditional pirate broadcaster" and a

"micro broadcaster" below. More detailed research on this area can be found at

<<http://www.roguecom.com/rogueradio>>.

Traditional Pirate Radio is described by the FCC and in general literature as having some of the following characteristics: (1) Operating in a manner that will decrease the chance of interdiction by authorities including; frequency switching, irregular operating hours or operating hours during times which there is less likelihood of interdiction (holidays, weekends, snow emergencies); changing locations; and not identifying their operators location or contact information. (2) Not seeking legal or political remedies to their illegal status. (3) Operating in isolation from their communities and being closed to outsiders.

Micro Radio is characterized by the following traits: (1) Operating in the open in defiance and protest to existing broadcast regulations including: (1) Operating in a manner that does not take into consideration possible interdiction by authorities including; consistent frequency use and operational hours; stable studio and transmitter locations; identification of certain operators, studio locations, internet, and telephone contact information. (2) Seeking political and legal remedies to their exclusion from broadcasting. (3) Operating in the community, to serve their communities and being open to those who wish to participate. This would include conventions and conferences where FCC officials and the press were invited to attend.

While these are generalities (theses characteristics do not apply equally to all parties engaged in either pirate or micro radio), they at least have a basis in fact and not innuendo or hearsay. It must be noted that some micro broadcasters have been forced underground and into a more "pirate-like" operating style due to persecution by the authorities.

The civil disobedience practiced by the micro radio pioneers is an American tradition that has been used by marginalized groups for hundreds of years. To penalize these activists while validating their cause with a Low Power Radio Service makes no sense. It is the equivalent to not letting women who led protests for suffrage vote because they "broke the law" or excluding Rosa Parks from riding in the front of the bus because she violated that rule in protest.

Moreover, the idea of these pioneers being excluded over "character" issues that allegedly govern who is allowed licenses and who is not is ridiculous in the face of this standards uneven enforcement. General Electric is one of the largest holders of radio broadcast licenses, yet as a corporation has been proven of defrauding the government over military contracts. Yet, they continue to hold these licenses despite this serious character issue. Besides, what indicates good character, obeying regulations that violate your rights or standing up to try and bring about change?

Practicality of a Hard Enforcement Stance

Finally, there is the practical matter of enforcement against Low Power Radio Stations. In spite of an unprecedented crackdown on these operators (over 300 in 1998) hundreds of stations continue to operate. Often stations who are shutdown simply reorganize, get more equipment, and go back on the air once the FCC leaves the area. As I establish in an article to be published in the Journal of Broadcasting and Electronic Media in fall of 1999, the FCC does not have the resources to eliminate unlicensed low power FM activity in the US. This is especially true after the recent round of field office closings and the reduction of CIB field personnel. The micro radio movement is backed by a national network of financial, legal, and technical support operating on the internet. Nearly instantaneous communication and depositories of data make these low power stations adaptable to changes in FCC interdiction strategies and allow stations to warn each other in the event of a crackdown. Low Power FM stations are inexpensive and highly portable, able to operate out of a backpack or be relocated in a matter of moments. Often stations are operated by collectives that allow those who have injunctions against them to turn over operation to other individuals to avoid prosecution. These operators usually have no assets to pay fines leveled as deterrents to future broadcasting. These factors make these stations very hard to shutdown and keep off the air.

Cost of Regulating LPFM v. Cost of Interdiction

The CPB and NAB express concern about the cost of regulating these stations. I propose that the cost of regulation pales in comparison to the cost on a long, protracted, Vietnam-style enforcement effort. With the obvious wide spread community support of LPFM, local assistance in these interdiction operations would be unlikely and the perception that the FCC is subservient to the wishes of the broadcast industry would only be reinforced. Taking such heavy handed action would be a public relations disaster and erode the authority of the FCC and the federal government. Imposing harsher penalties will only over-crowd courts and jails and further radicalize micro radio operators. In this heightened environment, especially with the use of armed Federal Marshals, it would only be a matter of time until someone is injured. I would remind the Commission of the origins of the concept of Freedom of the Press and libertarian thought. Allowing freedom to express opinions in the market place of ideas keeps dissident groups in the open where they may interact with the wider community and be tempered by their influence. To drive these groups underground will only serve to isolate them from the broader society and radicalize them further. At least their open operation may be monitored by the authorities and easily accessed to prevent injury to the public or state. While broadcasting has not been extended special legal status under the First Amendment, this partitioning from print and other protected media is quickly becoming an obscure and outdated legal oddity in the eyes of the public. The perception by a growing number of people is that being able to speak via the airwaves is essential to the operation of a Democracy. As Micro Radio pioneer Mbanna Kantako stated: "Given technology today, using print is like using the pony express in stead of airfreight." This is especially acute for communities with low literacy rates. The internet will not alleviate this problem, especially compounded by the fact that these communities and individuals will be the last wired and are the least able to afford computer equipment. The cheapest computer is still hundreds of dollars and access is several hundred dollars a year. An FM radio can be purchased for a few dollars.

Comments Falsely Filed Under "The State of Oregon"

Concerning the comments filed under the "State of Oregon;" I urge the Commission to discount these comments as they are falsely labeled and do not, in fact, represent the State of Oregon as they are not authored by, or under the direction of, the elected officials of Oregon. It is clear that labeling these comments as from the "State of Oregon" is blatant attempt to maximize their import and status. Such a deceitful move should call into question the viability of these comments.

Concerns over Implementation of Digital Broadcasting

Concerning the comments of NAB, CPB, USA Digital and others on potential conflicts between LPFM and IBOC: Those parties with financial interests tied to the use of IBOC tend to treat the implementation of this dubious answer to digital radio as a "done deal." I was under the impression that the matter was still under consideration by the Commission. The problem here lies in IBOC, not with Low Power FM. It is obvious to even the casual observer that the world has defaulted to the Eureka 147 format for digital radio. Our ability to compete in a global economy is only hampered by adopting standards that are inconsistent with those of a majority of other nations. While USA Digital and others complain of the time and expense of developing IBOC by themselves should be taken into consideration, I feel it is not the concern of the Commission or the general public whether these companies make a profit or how they choose to spend their money. Moreover, discounting a potential service based on interference with another potential service would seem to privilege one over the other based solely on the potential for profit. Since new receivers would need to be purchased by the general public to receive digital radio, it would make much more sense to implement this on a new band rather than forcing it on the current FM normal band making hundreds of millions of FM receivers obsolete. I would propose offering to trade current full power licenses on the FM band for digital licenses on another band on a 1 to 1 basis. In turn, the traded FM licenses could be broken down and used for LPFM. The NAB and other proponents of IBOC wish to get something for nothing by being able to piggy back non-related services on their FM channel allotments. This does not serve the

general public interest and is inconsistent with the traditional uses of the normal bands. Again, the Commission does not "owe" these broadcasters a living. In the event that IBOC is adopted, current full power license holders should have their frequency space curtailed to allow only for digital general use broadcasts. This would allow space for LPFM and would be a more efficient use of the spectrum than allowing spurious data and other transmission not intended for, or benefiting, the general public. If anything, conversion to digital is all about licensees getting more out of their bandwidth, not about improving service to the general public, the owners of the airwaves.

CONCLUDING COMMENTS

I urge the Commission to press ahead with its intention of democratizing the normal FM band by establishing a Low Power Radio Service restricted to conditions filed by the National Lawyers Guild Committee on Democratic Communication, the Microradio Empowerment Coalition, and the Joint Statement on Micro Radio.

Respectfully Submitted,

Ted M. Coopman

Rogue Communication

2501 Friesland Court

Santa Cruz, CA 95062

rogue@roguecom.com